

Defendants' Separate Statement of Facts

Defendants' Statement of Fact		Plaintiff's Response
23	Plaintiff's First Amended Complaint does not contain an allegation that either transfer at issue is voidable under applicable law by a creditor holding an unsecured claim that is allowable under section 502 of the Bankruptcy Code or that is not allowable only under section 502(e) of the Bankruptcy Code.	Disputed; The First Amended Complaint ("FAC") alleges that both Transfers are avoidable pursuant to applicable law. (FAC, ¶13) The FAC identifies the Plaintiff in his capacity as the Liquidating Trustee under the Liquidation Trust Agreement, as created according to the Plan in the bankruptcy case. (FAC, ¶¶1, 5, 6) The Liquidation Trust was created specifically to make distributions to holders of Allowed Claims and Allowed Interests and to pursue causes of action for their benefit. (FAC, ¶7) Section 4.1(e) of the Plan confirmed the existence of General Unsecured Claims which specifically included allowed lender deficiency claims in the amount of \$108,287,223.

**Plaintiff's Additional Separate Statement of Facts in
Opposition to Defendants' Motion for Summary Judgment**

Plaintiff's Additional Statement of Fact		Evidentiary Support
24	During the course of discovery in August 2021, the Trustee produced to Defendants the Final Judgment of unsecured creditors Jack McBride and Alan Nottingham dated December 16, 2015, the Abstract of Judgment, and the filed proof of claim in the Debtors' bankruptcy case.	See, Proof of Claim of John G. McBride attaching the Final Judgment (Ehren-Walia 003171-3178), a true and correct copy is attached to the Affidavit of J. Nolan as Exhibit 8.
25	During the course of discovery, the Trustee produced Schedule 10, Summary of Legal Actions against the Debtors, which identified thirteen (13) separate lawsuits by creditors filed against the Debtors.	See, Schedule 10 (Ehren-Walia 00907-910), a true and correct copy is attached to the Affidavit of J. Nolan as Exhibit 9.

Plaintiff's Additional Statement of Fact		Evidentiary Support
26	During the course of discovery, the Trustee produced to the Defendants the January 30, 2017 Credit Agreement with Bank of America, an Allowed Unsecured Claimant, in the bankruptcy cases.	See, Credit Agreement with Bank of America (Ehren-Walia 003504-3784), a true and correct copy is attached to the Affidavit of J. Nolan as Exhibit 10.
27.	During the course of discovery, the Trustee produced the Debtors' Third Amended Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code.	See, the Debtors' Third Amended Joint Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code (Ehren-Walia 003404-3463), a true and correct copy is attached to the Affidavit of J. Nolan as Exhibit 11.

Dated: February 22, 2023

PACHULSKI STANG ZIEHL & JONES LLP

By: /s/ Jeffrey P. Nolan

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Ehrenberg in his capacity as Liquidating

Trustee of Orion Healthcorp, Inc., *et al.*